IMT Nuremberg Archives

H – 2743

International Court of Justice

H2743 - 0002

G E N E R A L S T A F F A N D

H I G H C O M M A N D

Closing Statement For

The United States of America

Before

The International Tribunal

Nuremberg
August, 1946

Telford Taylor
Brigadier General, USA
Deputy Chief of Counsel

Peter Calvocoressi,
Clark Denney, and
Theodore F. Fenstermacher,
Of Counsel

H2743-0003

Mr. President and Members of the Tribunal:

Under the Indictment, the prosecution asks a declaration of criminality against six groups or organizations. For purposes of clarity in specifying the charges and marshalling the evidence, this division into six parts is appropriate, since it accurately reflects the formal structure of the Third Reich.

In a deeper sense, however, the Third Reich was not sextuple. It was simpler than that. The Third Reich was a political machine and a military machine. It was embodied in and sought its ends through the Nazi Party and the Armed Forces. Its successes at home and abroad were achieved by these two instruments. The Wehrmacht owed its resurgence largely to the Nazi Party; the Party, in turn, would have been helpless and impotent without the Wehrmacht. As General Reinecke put it, the two pillars of the Third Reich are the Party and the Armed Forces, and each is thrown back on the success or downfall of the other.[1]

Appendix B of the Indictment specifies the leaders and principal instrumentalities of the Party and the Armed Forces. From the Party, the Indictment specifies, for instance, the Corps of Political Leaders, and also the members of the SS, a principal executive arm of the Party. From the Armed Forces, the Indictment specifies the leading generals who had the principal authority for plans and operations.

I. THE GENERAL STAFF AND HIGH COMMAND GROUP

The composition of this group of military leaders was described by the prosecution during the case-in-chief, and little more needs to be said by way of exposition. The defense has taken the view that these military leaders do not constitute a group within the meaning of the Indictment. The arguments in support of this technical objection are, I believe, insubstantial, but I want to meet them directly and clearly.

A number of the points made by the defense are based either on misunderstanding or a deliberate misreading of the definition of the group in the Indictment. Thus, several witnesses have testified that the "General Staff" consisted of young officers of relatively junior rank

H2743 - 0004

who acted as assistants to the commanders-in-chief. This involves a confusion with what is known to military people as the "General Staff Corps" of War Academy graduates. The Indictment does not include these officers, as the prosecution made clear at the outset.[2] Insofar as this or similar testimony is an attack on the name which the Indictment applies to the military leadership group, it is an utterly insignificant point.[3] There is no stock phrase or word of art in German or English for the military leaders of the Wehrmacht; the Indictment combines the phrases "General Staff" and "High Command" as most descriptive of the chiefs of the four staffs of OKW, OKH, OKM, and OKL, all of whom were key figures in military planning, and the commanders-in-chief who directed operations. Together, they adequately comprehend the military leadership.

Several other minor and technical points merit only brief mention. It has been objected that the chart, attached to the affidavits of Halder, Brauchitsch, and Blaskowitz,[4] does not accurately depict the chain of command. That is true; the chart was not intended to show the chain of command, the affidavits say nothing about it, and the prosecution has not suggested anything of the kind.[5] Equally irrelevant is the question whether Keitel might have been shown in the same box with Hitler instead of having a box to himself.[6] None of these points about the chart involves the addition or subtraction of a single member of the group,[7] or affects the Indictment's definition of the military leadership. Equally irrelevant is the contention that the list of members of the group[8] includes some generals who held only temporary appointments as commanders-in-chief and were never formally designated as such. This might be later relevant in a trial of these individual generals, if they can show that they never really had the status and responsibility of a commander-in-chief, but is not important in contemplating the group as a whole.

Several affidavits submitted by the defense point out that a few generals were members of the group for less than six months, that a number of them died or were removed or retired from their positions before the end of the war, and that the younger ones were not generals when the

H2743 - 0005

war started. This is quite natural. We are concerned with a 7-year period, during most of which there was war, which is a hazardous and wearing occupation. During these years some generals died, others failed, and still others fell out of favor; new faces appeared as replacements; the great increase in the number of German Army Groups and Armies brought still other officers into the status of commander-in-chief. To the extent that in war the hazards were sharper and the failures more costly in the Wehrmacht than in politics, this turnover may have been correspondingly greater in the Wehrmacht than in the Nazi Party. But again, these questions are relevant only on the responsibility of individual members of the group, and not on the responsibility of the group itself.

A special point has been made of the fact that many members of the group did not become such until after 1942. The argument drawn from this circumstance is, I take it, that the generals who joined the group only after 1942 could not have taken part in the planning and launching of aggressive wars.[9] It is true that by the end of 1942 the Wehrmacht, led by the accused group, had invaded or overrun all or a large part of every neighboring country except Switzerland and Sweden, so that further wars of aggression had become impractical. I suppose that it might be urged with equal, if any, force that many Germans joined or rose to high rank in the SS or the Party Leadership group after 1942. Certainly the argument ignores that the military leadership group, long after 1942, was a group whose official orders were to murder commandos and commissars and to achieve "pacification" by spreading terror. Many of the atrocities committed by the German Armed Forces occurred late in the war. Once again, this point has substance only in that individual late-comers to the group may show in other proceedings that they never learned of and did not join in the criminal activities. The group itself cannot escape responsibility by pleading that it continued to grow even after the Third Reich's capacity to initiate aggressive wars had been exhausted.

H2743 - 0006

The defense tells us that the military leaders were not a "group" because they merely occupied official positions without any "unifying element."[10] This is a factual question. Its solution is not advanced by nice linguistic points, such as whether the German word "gruppe" means "group" or "number."[11] I suppose that "group" means a number of persons chosen because of some likeness.[12] Or as Mr. Justice Jackson put it,[13] the members must have an "identifiable relationship" and a "collective, general purpose." I suppose also that the "likeness" or "relationship" and the purpose must be meaningful under the London Agreement.

The generals who held the positions listed in the Indictment constituted the military leadership of the Third Reich. That is their "likeness," "identifiable relationship," or "unifying element." Their "collective general purpose" was to build up and train the Wehrmacht and to make its plans and direct its operations.

The evidence to this effect is, I submit, conclusive and uncontradicted. Leading German generals--Brauchitsch and Halder--have said in sworn statements[14] that those who held the positions listed in the Indictment had the "actual direction of the Armed Forces" and "were in effect the General Staff and High Command."[15] The technical objections made later by the defense with respect to the chart are quite irrelevant to this essential point.

The testimony of numerous generals, assuming its credibility, that the military leaders did not have any formal organization or any secret advisory council is quite wide of the mark. The prosecution has not charged this; nor has it charged that the military leaders were a political party or that they had a set or uniform view on internal political matters.

Nor are we surprised to hear from some defense witnesses that the Germans, like ourselves, found coordination within a single service easier to achieve than coordination between the Army, Navy, and Air Force.[16]

H2743-0007

The mere existence of OKW is sufficient proof of the importance which the Germans attached to inter-service collaboration, and numerous documents show constant and detailed planning and discussion between the three services.[17] In any event, it is unnecessary to look behind the actual course of events. Surely no one would have suggested in 1941, after witnessing the coordinated use of tanks and Stukas in Africa and the team-play of all three services during the Norwegian invasion, that the German war effort lacked coordination.

From the standpoint of military planning, we are told by Halder that the most important part of OKW was the operations staff, of which Jodl and Warlimont were the chief and deputy chief respectively.[18] The field commanders, too, participated in planning. We know from Brauchitsch and Blaskowitz[19] that the military plans for the attacks on Poland and other countries were submitted in advance to the commanders-in-chief of army groups and armies so that OKH would have the benefit of their recommendations. Brauchitsch and Blaskowitz have also told us that, during operations, the OKH and the commanders-in-chief of army groups and armies were in continual consultation and that the commanders-in-chief were repeatedly consulted by Hitler himself.[20] The testimony of General Reinhardt is to the same effect.[21] Contemporary documents clearly show the participation of the field commanders-in-chief in planning for the Polish campaign.[22]

The commanders-in-chief of army groups and armies in occupied territory had executive power (Vollziehende Gewalt) within the areas under their command.[23] Within those areas, they were supreme, and had the power of life and death over the inhabitants. They had the responsibility for determining such questions as whether the commissar and commando orders should be distributed, and if so how widely and with what instructions.

To summarize, these generals were an aggregation of persons who directed the German Armed Forces and whose collective purpose was to prepare it for and lead it in military operations. From time to time, when all the members met together, it was a congregation.[24] The purpose

H2743 - 0008

and spirit of the London Agreement clearly bring such a body of men within the scope of Article 9 thereof. The Agreement established this Tribunal to try such offenses as the planning and waging of aggressive wars, and violations of the laws and customs of war. The German military leaders are charged, among other things, with developing the plans under which aggressive and illegal wars were initiated, and with directing the Armed Forces in the launching and waging of these wars. They are charged with circulating throughout the Wehrmacht orders directing the murder of certain types of prisoners, and with aiding, abetting, and joining in the murder and ill treatment of the civilian population, all in violation of the laws and customs of war.

The argument of the defense that the military leaders are not a "group" and are therefore immune to a declaration under Article 9 is, we submit, utterly unfounded and flatly contrary to the plain purposes of the London Agreement. That Agreement cannot be reasonably construed to exclude from the purview of Article 9 the leaders of one of the two chief instrumentalities of the Third Reich.

The defense appears to contend that membership in this group was not voluntary.[25] I say "appears to," because in one breath we are told that the generals could not withdraw from the positions they occupied,[26] and in the next that many of them resigned because of disagreements with Hitler.[27]

This question is, I think, a simple one. We are not concerned here with the ordinary German conscript who made up the bulk of the Wehrmacht. We are concerned entirely with professional soldiers, and with the most zealous, ambitious and able German officers in the business. Most of them chose a military career because it was in their blood and, as Manstein put it,[28] they "considered the glory of war as something great." They slaved at and were devoted to their profession and if they reached the status of commander-in-chief, they were like Manstein, proud that an army had been entrusted to them. No one became a German commander-in-chief unless he wanted to.

H2743 - 0009

It is true that, in time of war, a professional officer cannot resign his commission or his post at his own free will. But this does not turn the professional officer into a conscript or make his status an involuntary one. No one becomes a professional officer without knowing in advance the obligations that will bind him in time of war. The fanatical Nazis who rushed to volunteer for the early Waffen-SS divisions or who voluntarily joined other para-military sections of the Party could not thereafter resign at will,[29] but I have not heard it urged that they were conscripts or involuntary members. The members of the General Staff and High Command group were keen, professional warriors who competed with others like themselves for the responsibilities and honors of being commanders-in-chief. They rose within the Wehrmacht just as an ambitious Party member might rise to be a Kreisleiter or Gauleiter.

In fact, retirement was easier for the commander-in-chief than anyone else in the Wehrmacht. The junior officer who protested against what was going on around him might lose advancement, be moved to a less desirable assignment, or be court martialled and disgraced. He was not given the option of retiring and he was usually too young to plead illness plausibly. The commanders-in-chief were in a much better position. No War Office or War Department wants a field commander-in-chief who is in constant and fundamental disagreement with his instructions. Such a commander-in-chief must be removed. Yet often he has sufficient seniority, prestige, and acknowledged ability so that his demotion or disgrace would be embarrassing, and retirement or acceptance of resignation is the best solution for all concerned.

And this is just what happened with some of the commanders-in-chief. The record is replete with testimony by or about commanders-in-chief who openly disagreed with Hitler on tactical matters and who, as a result of such disagreements, were retired or allowed to resign. I note in

H2743-0010

passing that the record is notably barren of evidence that any commander-in-chief openly disagreed with Hitler so decisively on the issuance of orders which violated the laws of war or who forced his retirement on account of these orders. At all events, it is clear that a commander-in-chief who wanted to retire could contrive to do so, whether by pleading illness or by honest, blunt behaviour. If he had the will, there was a way out. It is worth noting that the three Field Marshals who testified before this tribunal had all found or fallen into the way out, and the record shows that many others were equally successful[30] and that few of them thereafter suffered serious harm on this account.

II. CRIMINAL ACTIVITIES OF THE GROUP

I pass now to the criminal activities of the group. The prosecution submits that the evidence before the Tribunal conclusively establishes the participation of the General Staff and High Command group in accomplishing the criminal ends of the conspiracy, and in the commission of crimes under all parts of Article 6 of the Charter and under all counts of the Indictment.[31] We also submit that the criminal aims, methods, and activities of the group were of such a nature that the members may properly be charged with knowledge of them, and that, for the most part, they had actual knowledge.[32]

A. Counts One and Two of the Indictment--Crimes Against Peace

I will speak first of the pre-war period, or more accurately, of the period ending in the spring of 1939, when detailed planning for the attack on Poland got under way. It is worth noting that during this early period, the group defined in the Indictment never exceeded eight in number, and that four are defendants in this trial.[33]

I do not want to spend time retreading much-travelled roads. We know that during these years, the military leaders built up the Wehrmacht and made it into a formidable military machine, which struck terror into neighboring countries and later succeeded in overrunning most of them. There is not a shred of evidence to contradict the charge that members of

H2743 - 0011

the General Staff and High Command group directed the building and assembling of this machine. Some witnesses have testified that the rearmament was for defensive purposes only, but the Wehrmacht's new strength was promptly used to support Hitler's aggressive diplomatic policy. Austria and Czechoslovakia were conquered by the Wehrmacht, even though there was no war. The events of 1939 to 1942 and the terrible offensive power of the Wehrmacht are a further and sufficient answer, even without referring to Blomberg's official written statement in June, 1937 that there was no need to fear an attack on Germany from any quarter.[34]

Witnesses for the defense have made much of the fact that the generals had little or no foreknowledge of the absorption of Austria. Many of these witnesses were not at the time members of the group, but the point is, in any event, unhelpful, since the Anchluss was not timed in advance by the Germans, but was precipitated by Schussnigg's surprise order for a plebiscite.[35] That is why, as Manstein testified,[36] plans for the march into Austria had to be quickly improvised.[37] But the plans were drawn up by Manstein under the supervision of Beck (Chief of the General Staff of the Army and a member of the group),[38] and other members of the group were closely involved in the Anchluss,[39] as were other generals who later became members.[40]

As to the participation of the generals in the Munich crisis and occupation of the Sudetenland, the defense's main point seems to be that Brauchitsch, Beck, and other generals opposed risking a war at that time.[41] The record makes it quite clear that the generals' attitude was not based on any opposition to a diplomatic policy supported by military threats, or on any disagreement with the objective of smashing Czechoslovakia. Rather their attitude was that the Wehrmacht was not as yet (in 1938) strong enough to face a war with major powers. The defendant Jodl expressed it very clearly in his diary,[42] in drawing a contrast between "the Fuehrer's intuition that we must do it this year and the opinion of the Army that we cannot do it as yet, as most certainly the Western powers will interfere and we are not as yet equal to them."

H2743 - 0012

The further contention of the defense that there were no military preparations for the occupation of Czechoslovakia and that the Commander-in-Chief of the Army gave no instructions in this regard,[43] is completely incredible when weighed against contemporary documents of unquestioned authenticity, which have long been in evidence before the Tribunal and which the defense cannot and did not attempt to explain away. The military directives and planning memoranda contained in the so-called "Fall Gruen" file[44] demolish any such contention, and fully reveal the extensive preparations being made by the Wehrmacht under the leadership of Keitel, Jodl, Brauchitsch, Halder, and others.[45] Jodl's diary gives us further details about such matters as coordination of the air and ground offensives, timing of the D-day order, collaboration with the Hungarian army, and order of battle.[46] It also shows the personal participation of other members of the group[47] and of other generals who later became members.[48] Military preparation for absorption of the remainder of Czechoslovakia is also adequately shown by documents in evidence before the Tribunal.[49]

One other point about this pre-war period should be noted. The military leaders not only participated in the plans; they were delighted with the results. They were afraid of getting into a war before they were adequately prepared, but they wanted a big army and they wanted the strategic and military advantages which Germany derived from Hitler's Austrian and Czechoslovakian successes. That is, in fact, why the Party leaders and the military leaders worked together; that is why the generals supported Hitler; that is why the Third Reich, through the Party and the Wehrmacht, was able to achieve what it achieved. Leading German generals have told the Tribunal this in so many words. Blomberg tells us that before 1938-1939 the German generals were not opposed to Hitler.[50] Blaskowitz says that all officers in the army welcomed rearmament and therefore had no reason to oppose Hitler.[51] Both of them tell us that Hitler produced the results that all the generals desired.

H2743 - 0013

The testimony of Blomberg and Blaskowitz is in no way weakened by the statements of various defense witnesses that many army officers disliked some of Hitler's internal policies and distrusted some of the Nazi politicians. It is too much to expect that all partners in crime should like and trust each other. That, in spite of these differences, the Third Reich came so close to imposing its dominion and evil theories on the world, merely emphasizes the deep agreement between the Party and the military leaders on the most essential objectives--national unity and armed might, in order to accomplish territorial aggrandizement. This cannot be doubted, and for confirmation we need only look at the testimony of a witness called by the defense (Colonel General Reinhardt, who was chief of the Army Training Section before the war and later commanded a Panzer Army and an army group on the eastern front). When asked what was the attitude of the officers' corps toward Hitler, he replied:[52]

> "I do not believe there was a single officer who did not back up Hitler in his extraordinary successes. Hitler had led Germany out of its utmost misery, both politically and in its foreign politics, and economically."

So we turn to the war itself. The group of military leaders specified in the Indictment becomes much larger; we are no longer concerned only with the generals in Berlin, but also with the war lords who commanded the Wehrmacht in the field--names far more familiar to and feared by the peoples of the territories overrun by the Germans. Names such as Blaskowitz, von Bock, von Kluge, Kesselring, von Reichenau, Rundstedt, Sperrle, and von Weichs.[53]

What do the generals say in defense of the attack on Poland? Some of their statements, like Manstein's explanation that the Poles might "fearlessly" attack Germany,[54] are merely laughable. About the best they can say is that they expected that Poland would give in without a struggle.[55] Were this a defense, its credibility is dubious. Hitler himself had made it clear to the military leaders that it was not a question of Danzig and the Corridor, but of living space and increasing the food supply under German exploitation.[56] The generals could have hardly expected the Poles to give themselves up entirely without a

H2743 - 0014

struggle, and Hitler had said that there would be war and no repetition of the Czech affair.[57]

But it is no defense that the generals hoped for a "Blumenkreig." The witnesses for the defense have agreed that German demands on Poland were to be enforced by military threats and armed might.[58] There is no evidence that the generals opposed this policy of sheer holdup. In fact, it is clear that they heartily endorsed it, since the Polish corridor was regarded by them as a "desecration" and the regaining from Poland of former German territory as a "point of honor."[59] And it has never been a defense that a robber is surprised by the resistance of his victim, and has to commit murder in order to get the money.

There is no controversy concerning the knowing participation of the members of the General Staff and High Command group in the planning and launching of the attack itself. Brauchitsch has described how the plans were evolved, and then passed to the field commanders-in-chief for their recommendations.[60] We know, both from his own testimony[61] and from contemporary documents,[62] that Blaskowitz, one of the field commanders-in-chief, received the plans for the attack in June and thereafter perfected them in consultation with the army group and OKH. Rundstedt's Chief of Staff received the plans,[63] and there can be no doubt that all the other commanders-in-chief did also. A week before the attack, all the members of the group met at the Obersalzberg for the final briefing.[64]

As the war spread to other countries and eventually over the entire continent of Europe, the Wehrmacht grew and many more army groups, armies, air fleets, and naval commands were created and the membership in the group ~~were created and the membership in the group~~ was correspondingly enlarged. All three branches of the Wehrmacht participated in the invasion of Norway and Denmark, which was an excellent demonstration of "combined operations" involving the closest joint planning and coordination. The documents before the Tribunal show that this operation was a brain child of the German admirals; the proposal originated with Raeder and other

H2743-0015

naval members of the group and, after Hitler's approval had been obtained the plans were developed at OKW.[65] Numerous members of the group participated in its planning and execution.[66] The testimony of several army commanders that they had no foreknowledge of the attack[67] is not surprising, since the OKH and the army commanders-in-chief were all fully absorbed at the time in planning the much larger attack on the Low Countries and France. Only a few German divisions were used in Norway and Denmark and, since it was a "combined operation," the plans were developed in OKW, not OKH.

As for the major attack in the west, it appears from the testimony of defense witnesses that Hitler wanted to attack in the fall of 1939 and that Brauchitsch and other generals persuaded him that it should be postponed until the spring of 1940,[68] This postponment indeed shows that the generals had considerable influence with Hitler, but hardly excuses the later attack. When the spring of 1940 arrived, according to Manstein,[69] "the offensive in the west, from the point of view of the soldier, was absolutely inevitable." There is no evidence that a single German commander protested against or opposed the flagrant and ruthless violation of the neutrality of the Low Countries.[70]

The explanations of the defense concerning the crimes against peace are labored and implausible, and are in conflict equally with the documents before the Tribunal and with the history of the years in question. Nor is it true that the military leaders were mere puppets without influence on Hitler or the course of events. Naturally there were disagreements not only between Hitler and the Wehrmacht, but within the Wehrmacht itself. If Hitler prevailed at times, so at times did the Wehrmacht, whether it was to postpone the western offensive or to launch the attack on Denmark and Norway. Despite the attempt to make the contrary appear, Hitler was not so stupid as to act without the benefit of military advice. One need only look at Hitler's directive to the military leaders of 12 November 1940,[71] written after the successful conclusion of the western

H2743-0016

offensive, in which he discusses very tentatively his future plans in France, a possible offensive in Spain, whether Madeira and the Azores should be occupied, what assistance should be given the Italians in North Africa, what to do in Greece and the Balkans, what the future might hold with regard to the Soviet Union, and whether to invade England in the spring of 1941. Hitler concluded:

> "I shall expect the commanders-in-chief to express their opinions of the measures anticipated in this directive. I shall then give orders regarding the method of execution and synchronization of the individual actions."

No, the leaders of the Wehrmacht were not puppets. If the generals owed their opportunity to rebuild the Wehrmacht largely to Hitler and the Nazis, it is also true that Hitler was utterly dependent on the generals for carrying out his plans. Brauchitsch has pointed out[72] that "the carrying out of the orders that were given to the army and to the army groups required such a high knowledge of military matters and such ability and psychological understanding that there were only a few people who were actually able to carry out such orders." And it is worth noting that despite the very real and natural friction between the war lords and a former corporal, Hitler never, until July, 1944, turned outside the ranks of the army for his commanders-in-chief.[73] Even during those final desperate months, only four outsiders (all from the SS)[74] achieved the coveted distinction.

Nor was the Wehrmacht that swarmed over the continent of Europe led by reluctant men. These aggressive wars were launched and waged by men who worshipped armed might, and wanted to extend the hegemony of Germany. That is, at bottom, why the Nazis and the Wehrmacht leaders gave the Third Reich its unity. I recall the Tribunal's attention to Admiral Fricke's memorandum of June, 1940:[75]

> "It is too well known to need further mention that Germany's present position in the narrows of the Heligoland Bight and in the Baltic--bordered as it is by a whole series of States and under their influence--is an impossible one for the future of Greater Germany.

* * *

H2743-0017

"3). The power of Greater Germany in the strategic areas acquired in this war should result in the existing population of these areas feeling themselves politically, economically and militarily to be completely dependent on Germany. If the following results are achieved--that expansion is undertaken (on a scale I shall describe later) by means of the military measures for occupation taken during the war, that French powers of resistance (popular unity, mineral resources, industry, Armed Forces) are so broken that a revival must be considered out of the question, that the smaller States such as the Netherlands, Denmark and Norway are forced into a dependence on us which will enable us in any circumstances and at any time easily to occupy these countries again,--then in practice the same, but psychologically much more, will be achieved.

* * *

"The solution * * *, therefore, appears to be * * * to crush France, to occupy Belgium, part of North and East France, to allow the Netherlands, Denmark and Norway to exist on the basis indicated above."

In the face of documents such as this one, we have nevertheless heard the generals say over and over again that they were never told about what was going on and heard about events for the first time over the radio. Over and over again they have protested that they never heard about certain things until they were lodged in the jail at Nürnberg. Military figures, like so many others in this case, have not hesitated to put the responsibility for things which they cannot deny or avoid on the shoulders of one or two people whom they seek to portray as peculiar and unrepresentative of the group. The common denominator of these scapegoats is that they are all dead. The dead Reichenau is made to share the blame with the other dead who cannot speak--Hitler, Himmler, Dr. Rasche and the rest. These defenses are mean and they are utterly incredible. The world will never believe them.

No group of men was more intimately concerned than were the military leaders with what was going on in and around Germany in the years before the war. The military leaders now tell us that they neither knew, nor cared to know, nor ought to have known about these things. If what they say is true, then they are unique, for nearly all the world had heard something about these things. One of the most remarkable things about this trial has been that instead of a series of startling revelations, the documents assembled here and the labor devoted to them have served to confirm what

H2743 - 0018

was already known or suspected throughout the world many years ago. I cannot suppose that anybody will ever subscribe to the view, which the military leaders have been forced by circumstances to put forward here in order to try to clear themselves from a stain which is too dark to be effaced.

H2743 - 0019

B. Counts Three and Four of the Indictment--
War Crimes and Crimes against Humanity

The crimes against peace in which the General Staff and High Command group participated led inevitably to the war crimes which followed. Without the participation of this group in the crimes against peace, there would have been no war crimes. It is not a change from one subject to another, but only the inevitable chai of causation, which leads us now to consider the methods by which the Wehrmacht waged the wars it had launched.

We do not, of course, suggest that the hands of every German soldier were plunged into innocent blood, or that the rules of war and the laws of decency were disregarded by every German commander. But we do say that the nature and extent of the atrocities ordered by the leaders of the Wehrmacht and thereafter perpetrated by it in many countries of Europe, reveal and prove a calculated indifference on the part of the military leaders to the commission of crimes.

The uncontested fact is that the Supreme Command of the Wehrmacht, under instructions from Hitler as its commander-in-chief, issued various orders which flagrantly contravened the rules of war. These included the orders for the shooting of commandos and political commissars, the orders to "pacify" the occupied territories of the Soviet Union by spreading terror, and others. The defense does not dispute the issuance of these orders, and it does not and cannot contest their criminality. Rather we are told that the German commanders were honorable soldiers, that they disapproved of these orders, that they tacitly agreed not to execute the orders, and that the orders were not executed.

Let us test this defense against the facts in the case of the commando order. The original order[76] and the other relevant documents are all in evidence.[77] In October, 1942, Hitler ordered that enemy commandos were to be slaughtered to the last man; that even if they surrendered, they were nonetheless to be shot immediately, unless interrogation were necessary, in which case they were to be shot thereafter.

H2743 - 0020

The order was not a purposeless piece of criminality; allied commando operations were doing serious damage to the German war effort, and Hitler thought this order would act as a deterrent.

The order was issued from the OKW and distributed to all three branches of the service. There is ample evidence that it was widely distributed and well-known within the Wehrmacht. Rundstedt, Supreme Commander in the West, reported on June 23, 1944 that[78] "the treatment of enemy commando groups has so far been carried out" according to the Hitler order. Two years later, under different circumstances, Rundstedt testified that he "evaded" and "sabotaged" the order, and that it was not carried out.[79] But we know from the documents that it was carried out. Pursuant to this order, British and Norwegian commandos were executed in Norway in 1942 and 1943;[80] American commandos were shot in Italy in 1944;[81] allied soldiers were executed in Slovakia in 1945.[82] And, in the nature of things, the order must have been carried out in other instances of which, unhappily, no trace now remains.

In the light of these documents, what remains of the defense? Stated most favorably, merely that because some of the military leaders disapproved the order, it was not executed as often as it otherwise might have been. But this defense is worse than worthless; it is shameful.

We must not forget that to kill a defenseless prisoner-of-war is not only a violation of the rules of war. It is murder. And murder is not the less murder whether there is one victim, or 55 (which is the number of slaughtered commandos proved by the documents), or Ohlendorf's 90,000. Crime has been piled upon crime in this case until we are in danger of losing our sense of proportion. We have heard so much of mass extermination that we are likely to forget that simple murder is a capital offense.

The laws of all civilized nations require that a man go to some lengths to avoid associating himself with murder, whether as accomplice or accessory or co-conspirator. And these requirements can reasonably be applied to the German military leaders. Before this Tribunal they have made much of their traditions of honor, decency, courage, and chivalry.

H2743 - 0021

Under German military law, a subordinate is liable to punishment for obeying the order of a superior, if the subordinate knows that the order requires the commission of a general or a military crime.[83] The commando order required the commission of murder, and every German officer who handled the order knew that perfectly well.

When Hitler directed the issuance of this order, the leaders of the Wehrmacht knew that it required the commission of murder. The responsibility for handling this question lay squarely on the group defined in the Indictment. The chiefs at OKW, OKH, OKL, and OKM had to decide whether to refuse to issue a criminal order or whether to pass it on to the commanders-in-chief in the field. The commanders in the field had to decide whether to execute or refuse to execute the order and whether to distribute it to their subordinates.[84]

One can imagine that there were many meetings and telephone conversations among various members of the group to discuss this matter. There is no evidence that a single member of the group openly protested or announced his refusal to execute it. The general result was that the order was distributed throughout a large part of the Wehrmacht. This put the subordinate commanders in the same position as their superiors. We are told that some of the generals tacitly agreed not to carry out the order. If so, it was a miserable and worthless compromise. By distributing the order with "secret" or "tacit" understandings, the commanders-in-chief merely spread the responsibility and deprived themselves of any effective control over the situation. A tacit agreement to disobey cannot be as widely circulated. The inevitable result, and the result proved by the documents, was that the order was carried out, and innocent men were murdered.

Because he was responsible for enforcing the commando order, General Dostler was tried, convicted, and shot to death.[85] For the same crime, General Falkenhorst now stands condemned to die. But the responsibility for these murders is shared by Falkenhorst and Dostler with every German commander-in-chief, at home or in the field, who allowed this order to

H2743 - 0022

become the official law of the Wehrmacht and participated in its distribution. On this charge alone, I submit, the General Staff and High Command group is proved to have participated directly, effectively, and knowingly in the commission of war crimes.

On the Eastern front, the callous indifference of the German war lords to violations of the laws of war and to mass suffering and death produced results equally criminal and, because on a grander scale, far more horrible. The atrocities committed by the Wehrmacht and other agencies of the Third Reich in the east were of such staggering enormity that they rather tax the power of comprehension. Why did all these things happen? Analysis will show, I believe, that it was not simply madness and bloodlust. On the contrary, there was both method and purpose. These atrocities occurred as the result of carefully calculated orders and directives, issued prior to or at the time of the attack on the Soviet Union, which form a coherent, logical pattern.

We need not here consider the reasons why Hitler, in the fall of 1940, began to consider seriously launching an attack against the Soviet Union. We do know that beginning in September of 1940, he was constantly discussing this possibility with the military leaders, who had ample opportunity to express their views to him. We know that there was a division of opinion among the generals; none of them appear to have been much governed by moral scruples, but some thought the attack unnecessary, and others were dubious that a quick victory could be achieved. However, still others agreed with Hitler that the attack should be launched.[86] When Hitler, in consultation and with the support of part of the military leadership, decided to make the attack, there is no indication that any leading generals stood out decisively against the decision,[87] and they embarked on the war with the utmost determination to carry it through to a successful conclusion.

Whatever may have been the reasons which prompted the attack, there was one factor which, once the decision had been made, became a vitally important object and purpose of the attack. That was to seize large areas

H2743 -0023

of the Soviet Union, and to exploit these areas for the material benefit of Germany. To accomplish this, it was desired to "pacify" and crush all opposition in the occupied territory as rapidly as possible and with a minimum expenditure of man power and materiel, to obliterate the Soviet political system and set up new, German-supported, regional political administrations, and to revise and expand the productive resources of these territories and convert them to the uses of the Third Reich.

Hitler had very definite ideas as to how this program should be carried out, and these ideas were partially embodied in the series of directives and orders with which the Tribunal is now familiar. Some of these orders were to be executed directly by the Wehrmacht; some of them were to be executed by other agencies of the Reich, but in coordination with and supported by the Wehrmacht.

For the rapid and economical "pacification" of occupied territories, after Hitler had consulted Brauchitsch the OKW issued the order of 22 July, 1941,[88] which ordered the commanders-in-chief to establish security, not by sentencing the guilty in courts of law, but by spreading "such terror as is likely, by its mere existence, to crush every will to resist amongst the population." For the same purpose, OKW issued the order of 13 May, 1941,[89] which suspended the use of military courts for punishing offenses by enemy civilians, and directed that the troops themselves accomplish pacification by "ruthless action," "the most extreme methods," and "collective despotic measures" against localities. In furtherance of these abominable policies, it was further ordered that the German troops who committed offenses against Soviet civilians were not to be punished at all, unless punishment were necessary to maintain discipline and security or prevent waste of food or materiel. Every commissioned officer on the eastern front was to be instructed promptly and emphatically to behave in accordance with these principles. The language of the order was calculated to incite officers and men alike to the most despicable behaviour.[90]

H2743-0024

In these two orders we can see the basic composition of this revolting picture. In more detail, Hitler expected particularly bitter opposition to his new Russian regimes from officers and agents of the Soviet government and from all Jews. These elements he decided to exterminate utterly, as they would otherwise remain a constant focal point of resistance within the occupied regions.

In furtherance of these policies of mass murder, the OKW issued the order for the killing of all political commissars who might be captured.[91] This, like the commando order, required the murder of defenseless prisoners-of-war. And in this case the military leaders behaved in precisely the same fashion. Not one commander-in-chief openly protested or announced his refusal to execute the order. A few commanders may have refused to distribute the order down to the troops,[92] but it was distributed and became well-known over the entire eastern front.[93] As in the case of the commando order, we are told that by tacit agreement among the commanders, it was not carried out. The evidence in support of this is that particular commanders or other officers never personally knew of an instance where a captured commissar was shot. We may assume the truth of some of these statements, but it is nonetheless totally incredible, in view of the order's wide distribution, and the deliberate brutalizing of the German soldier by such orders as these and such directives as Reichenau and Manstein issued to their troops,[94] that the commissar order was not carried out in many cases. It must have been.

The campaign of mass extermination was extended from commissars to all Communists by the OKW order of 16 September 1941,[95] which directed that all cases of resistance to the Wehrmacht, no matter what the circumstances, should be attributed to Communists and that "the death penalty for 50-100 communists should generally be regarded as suitable atonement for one German soldier's life."

Terrorization and exploitation of the Russian countryside and extermination of undesired elements could not, obviously, be carried

H2743 - 0025

out by the Wehrmacht alone. Many other agencies of the Third Reich had an important share in this far-flung, evil program. Among these other agencies, perhaps the most unspeakable were the special task forces of Himmler, known as Einsatzgruppen and Einsatzkommandos. The mission of these units was to assist in "pacification" and pave the way for the new political regime by stamping out opposition, and particularly by slaughtering communists and Jews. We know, both from contemporary documents[96] and from the confession of the leader of one of these units,[97] with what terrible fidelity that mission was performed.

The particular missions of the Einsatzgruppen were assigned by Himmler, but these units could not simply be turned loose in the operational and rear areas of conquered territory, without administration, supply, communication facilities, and sufficient control by the military to insure that their tasks would be coordinated with, and at least would not obstruct, military operations. The defense has made every effort to conceal this plain fact, but any soldier, and indeed anyone who gives the matter a moment's thought, must know that it is true.

And this is quite clear from the documents. The OKW Directive for Special Areas of 13 March 1941[98] provided that Himmler could send these units into operational areas in order to perform "special tasks for the preparation of the political administration, tasks which result from the struggle which has to be carried out between two opposing political systems." But it carefully specified that the execution of Himmler's tasks should not disturb military operations, and that the units were subject to the supreme authority of the commander-in-chief of the army in the operational area.[99] The billeting and feeding of Himmler's units was to be furnished by the army. It was directed that further details should be arranged between the OKH and Himmler. Brauchitsch has confirmed that subsequently the details were settled at a conference between Heydrich and General Wagner of OKH,[100] and Schellenberg, who drafted the agreement, has described its contents.[101]

H2743 -0026

These infamous gangs of murderers, in short, were fed and housed by the army and would have been helpless without the army's support. The testimony of some of the German generals that these killings of thousands upon thousands took place without their knowledge would make one smile, were not the truth so black and sickening. A military area, even far behind the front, is not a desert where one can wander to and fro unchallenged. It is a veritable maze of rear headquarters, trucking companies, ammunition dumps, supply depots, signal installations, hospitals, gasoline dumps, railway guards, prisoner-of-war stockades, anti-aircraft batteries, airfields, engineers, ordnance units, motor pools--a thousand and one other troops that furnish the base of operations and the line of communications for an army in the field. The smooth functioning of this vast and complicated train is vital to the success of the combat troops. The enemy knows this, and is eager both to disrupt it and to extract intelligence from it through sabotage groups, agents, and partisans. Wherefore the occupying forces guard their installations, patrol the roads and railways, and garrison the centers of population. Travellers, no matter what uniform they wear, are stopped and questioned and asked for identification. These troops in the rear come in close contact with the civilian population, and know what is going on among them. Military police and counter-intelligence troops police the area and report on its condition to higher headquarters.

Furthermore, a commander in the field dislikes to have autonomous units under special orders from home at large in his area. This is particularly true when, as here, the units came as servants of Himmler, whom the German generals say they thought to be their enemy, intent on ursurping their powers and functions. The idea that Himmler's extermination squads flitted through Russia, murdering Jews and communists on a large scale, but secretly and unbeknownst to the army, is utterly preposterous--the desperate sparring of men who have no recourse but to say what is not true.

H2743 - 0027

Let us look again at the pattern as a whole. Most of it was written down in plain German before the attack on Russia was launched. Terrorize the populace, let acts of violence and brutality on the part of German troops go unpunished, kill the commissars, kill 100 communists whenever you can find an excuse, make way for and feed and house Himmler's squads performing "tasks which result from the struggle which has to be carried out between two opposing political systems."[102] And the political system for which the commanders-in-chief were fighting had already been exterminating communists and Jews and boasting about it for years.

The German generals were bright enough to understand this pattern. In any event, it had been explained to them. The OKW directive suspending the courts martial ended with a directive to the military leaders to inform their legal advisors about the "verbal information in which the political intentions of the High Command were explained to the Commander-in-Chief." [103] The defendant Rosenberg, at the time of or before the invasion, advised Keitel, Jodl, Warlimont, Brauchitsch, and Raeder about his "political and historical conception of the eastern problem." [104] According to Brauchitsch, Hitler had explained the "ideological" nature of the war to all the commanders-in-chief in conference at the time the commissar order was issued.[105] The affidavits of Generals Roettiger, Rode, and Heusinger further confirm the obvious conclusion that the whole pattern of "pacification" was well understood throughout the German military leadership.[106]

An army demoralized and brutalized by criminal orders and evil doctrines will behave in a brutal way in circumstances where they have no explicit orders. I have not, for instance, seen a written order that Soviet prisoners who could not march should be shot. I am prepared to believe that some German generals treated prisoners

H2743 - 0028

as well as they could, but I also find convincing the complaint of the young German lieutenant[107] that efforts to pacify and exploit the Ukraine were being frustrated because:

> "prisoners were shot when they could not march any more, right in the middle of villages and some of the bigger hamlets, and the corpses were left lying about, and the population saw in these facts what they did not understand and which confirmed the worst distortions of enemy propaganda."

For the same reasons, the anti-partisan warfare was carried out brutally, and with enormous loss of life among innocent civilians.[108] As the divisions of the German army were transferred between the eastern and western fronts, the practices on each front spread to the other. Slaughter at Kherson and Kovno was reflected in massacre at Malmedy and Oradour. The German army had been demoralized by its leaders. I recall to the Tribunal that a high German military judge, as early as 1939, granted "extenuating circumstances" to an SS officer who, without any reason, shot 50 Jews in a Polish synagogue because:[109]

> "as an SS man, particularly sensitive to the sight of Jews, and to the hostile attitude of Jewry to the Germans, he therefore acted quite thoughtlessly in a youthful spirit of adventure."

One must remember the observation before this Tribunal of SS Obergruppenfuehrer Bach-Zelewsky, who pointed out that:[110]

> "when for years, for decades, the doctrines are preached that the Slavic race is an inferior race and Jews not even human, then such an explosion is inevitable."

The defense of these charges is the same as in the case of the commando order. A mass of affidavits have been submitted by individual commanders-in-chief and subordinate officers in which they express their abhorrence of these orders and profess that they did not execute them. Again we hear of tacit understandings, even in the face of evidence as to the slaughter which the orders caused. It makes one gasp that such a defense can be put forward, apparently without shame.

Again I say that the responsibility lies squarely on the group specified in the indictment. Keitel, Jodl, Brauchitsch, Goering, and

H2743 - 0029

their colleagues at the center of affairs circulated these malignant orders, the base criminality of which a child could see. Kleist, Kluge, Rundstedt, Reichenau, Schobert, Manstein and the other field commanders-in-chief distributed them to their subordinate officers. No secret agreements could forestall the terrible results which followed inevitably.

Is it really too much to ask that the commanders-in-chief should have refused to distribute these orders? As soldiers they were bound to obey their supreme commanders, but their own law and code says that it is the duty of every soldier to refuse to obey orders that he knows to be criminal. This is hard for the ordinary soldier, acting under pistol-point orders from his lieutenant. It is far less difficult for the commander-in-chief. He is expected to be mature, educated, accustomed to responsibility and disciplined to be steady and unflinching when put to a test. Under their own law and under the traditions they are so shameless as still to vaunt, the leaders were in duty bound to reject the orders. Their failure caused suffering and death to hundreds of thousands; their failure resulted directly in countless murders and other brutal crimes; and they, far more than the soldiers whom these orders led into crime, are the real criminals.

Hitler needed the commanders-in-chief; he needed them desperately and would have been helpless without them.[111] They could have held securely and firmly to the standards which every soldier and, indeed every man, is expected to meet. And it was not, in most cases, fear of Hitler that caused them to betray these standards. They were ready enough to disagree with Hitler on other matters which they regarded as more important. They did not want to risk a breach with Hitler over what they callously regarded as a minor matter. They were intent on "larger" things--the conquest of Europe--on which they and Hitler were in agreement.

Some of the military leaders, we cannot tell how many, were willing to go much farther and to stand sponsor for Nazi ideology.

H2743 – 0030

Reichenau[112] and Manstein[113] lent their names and prestige shamelessly in order to advance these vile doctrines. We cannot capture all the orders; we cannot tell how many German commanders-in-chief there are who, like Manstein, unctuously protesting their disapproval of Nazi doctrine, could be confronted with their own nauseating manifestos.[114]

We may assume, for the sake of argument, that many German commanders-in-chief disliked the pattern of orders and doctrines which the evidence here has unfolded. He who touches filth is not excused because he holds his nose. For reasons which appeared to them sufficient, the German military leaders helped to weave this pattern. It is just this calculated indifference to crime which makes their conduct so unspeakable. Those individual commanders-in-chief, if any, who can show clean hands may come forth and clear themselves. But the military leaders as a group, I submit, are proved beyond doubt to have participated directly, effectively, and knowingly in numerous and wide-spread war crimes and crimes against humanity.

III. CONCLUSION

Under Articles 9 and 10 of the London Agreement for the trial of major war criminals, Keitel and Raeder and the other military defendants are on trial not only as individuals but as representatives of the German military leadership. The military defendants committed their crimes as military leaders and hand-in-hand with others. It is in their representative capacity that the military leaders in the dock are truly important.

The evidence against this group is so complete and compelling that their attempts at defense must be desperately and inconsistently contrived. When called to account as a group for their crimes, the famous German General Staff disintegrates, like a child's puzzle thrown on the floor, into 130 separate pieces. We are told that there was nothing there. Called upon to state their views on Hitler, aggressive war, or any

H2743 - 0031

other unpleasant subject, the pieces reassemble themselves into pattern instantly and magically. With true German discipline, the same words come from every mouth. When the question is the participation of the Wehrmacht in killing Jews, they indignantly deny that their soldiers would do such things.[115] When the question is the enforcement of law and discipline within the Wehrmacht, we are met by affidavits saying that German soldiers who killed Jews were court martialed and shot.[116] Charged with responsibility as a group, they plead immunity on the ground that they could not resign and that their status was therefore involuntary. Seeking to establish that they disapproved the policies of Hitler, they boast that many of their number who expressed their opposition were allowed or requested to resign. The inconsistency of their appeal to the soldier's oath of obedience is particularly shameless. Charged with launching aggressive wars against neighboring countries, they plead the oath in their defense. Accused of crimes committed during the war, they take credit to themselves for refusing to obey criminal orders. And so it is represented that the soldier who in time of peace was completely bound by his oath give unquestioning obedience, regardless of consequences, to a perjured head of state, could nevertheless, when his country was at war and obedience supposedly far more necessary, dabble in secret disobedience and thereby shift the blame and responsibility for the murder of commandos and kommissars onto other shoulders.

Let us look once more at these military leaders whose actions we have just examined. They are a group in more ways than one. They are more than a group; they are a class, almost a caste. They are a course of thought and a way of life. They have distinctive qualities of mind, which have been noted and commented upon by the rest of the world for many decades, and have their roots in centuries. They have been a historical force, and are still to be reckoned with. They are proud of it.

To escape the consequences of their actions, these men now deny all this. But in their very denial, the truth is apparent. Their group spirit and unity of outlook and purpose is so deep that it drops from

H2743-0032

their lips willy-nilly. Read their testimony; always they refer to themselves as "we" or "we old soldiers," and they are forever stating "our" attitude on this or that subject. Rundstedt's testimony is full of such expressions of the attitude of the German military leaders as a group on a great variety of questions.[117] Manstein told us that "we soldiers mistrusted all parties"; "we all considered ourselves the trustees of the unity of Germany"; and "The National Socialist aim of unification was according to our attitude, but not the National Socialist methods."[118]

What are the characteristics of the German military leaders? They have been familiar to students of history for a long time; books have been written by them and about them. They are manifest in the documents and testimony before the Tribunal.

They are careful observers of Germany's internal politics, but their tradition and policy is not to identify themselves with parties or internal political movements. This is the only true note in the refrain, sung so often at this trial, that "we were soldiers and not politicians." They regard themselves as above politics and politicians. They are concerned only with what they consider to be the deeper, unchanging interests of Germany as a nation. As Manstein put it:[119]

> "We soldiers mistrusted all parties because every party in Germany placed its own interests above the interests of Germany. We all considered ourselves the trustees of the unity of Germany in this respect . . ."

The German military leaders are deeply interested in foreign politics and diplomacy. Any intelligent professional officer must be. Training is conducted, equipment is built, and plans are evolved in the light of what is known about the military potential and intentions of other countries. No officers in the world were more aware of this than the Germans; none studied the international scene as closely or with such cold calculation.[120] It was their mentor, Clausewitz, who described war as an instrument of politics.

The German military leaders want Germany to be free from political

H2743 - 0033

fluctuations, and a government which will mobilize German resources behind the Wehrmacht and inculcate in the German public the spirit and purposes of militarism. This is what Rundstedt meant when he said that:[121] "The National Socialist ideas which were good were usually ideas which were carried over from old Prussian times and we had known already without the National Socialists." This is what Manstein meant by the "unity" of Germany.[122]

The German military leaders believe in war. They regard it as part of a normal, well-rounded life. Manstein told us from the witness box[123] That they "naturally considered the glory of war as something great." The "considered opinion" of OKW in 1938 recited that:[124]

> "Despite all attempts to outlaw it, war is still a law of nature which may be challenged but not eliminated. It serves the survival of the race and state or the assurance of its historical future.
>
> "This high moral purpose gives war its total character and its ethical justification."

These characteristics of the German military leaders are deep and permanent. They have been bad for the world, and bad for Germany too. Their philosophy is so perverse that they regard a lost war, and a defeated and prostate Germany, as a glorious opportunity to start again on the same terrible cycle. Their attitude of mind is nowhere better set forth than in a speech delivered by General Beck before the German War Academy in 1935.[125] The audience of young officers was told that "the hour of death of our old magnificent army" in 1919 "led to the new life of the young Reichswehr," and that the German army returned from the first world war "crowned with the laurels of immortality." Later on they were told that if the military leaders have displayed intelligence and courage, then losing a war "is ennobled by the pride of a glorious fall." In conclusion, they are reminded that Germany is a "military-minded nation" and are exhorted to remember "the duty which they owe to the man who re-created and made strong again the German Wehrmacht."

H2743 - 0034

In 1935, that man was Hitler. In previous years it was other men. The German militarist will join forces with any man or government that offers fair prospect of effective support for military exploits. Men who believe in war as a way of life learn nothing from the experience of losing one.

I have painted this picture of the German military leaders not because it is an unfamiliar one, but because it is so familiar that it may be in danger of being overlooked. We must not become preoccupied with the niceties of a chart or details of military organization at the expense of far more important things which are matters of common knowledge. The whole world has long known about and suffered at the hands of the German military leadership. Its qualities and conduct are open and notorious. Is the world now to be told that there is no such group? Is it to hear that the German war-lords cannot be judged because they were a bunch of conscripts? We have had to deal seriously with such arguments only because there are no others.

That the case against the German militarists is clear does not make it the less important. We are at grips here with something big and evil and durable; something that was not born in 1933 or even 1921; something much older than anyone here; something far more important than any individual in the dock; something that is not yet dead and that cannot be killed by a rifle or a hangman's noose.

For nine months this court room has been a world of gas chambers, mountains of corpses, human-skin lampshades, shrunken skulls, freezing experiments, and bank vaults filled with gold teeth. It is vital to the conscience of the world that all the participants in these enormities shall be brought to justice. But these exhibits, gruesome as they are, do not lie at the heart of this case. Little will be accomplished by shaking the poisoned fruit from the tree. It is much harder to dig the tree up by the roots, but only this will, in the long run, do much good.

The tree which bore this fruit is German militarism. Militarism was as much the core of the Nazi party as of the Wehrmacht itself. Militarism

H2743 - 0035

is not the profession of arms. Militarism is embodied in the "military-minded nation" whose leaders preach and practice conquest by force of arms, and relish war as something desirable in itself. Militarism inevitably leads to cynical and wicked disregard of the rights of others and of the very elements of civilization. Militarism destroys the moral character of the nation that practices it and, because it can be overthrown only by its own weapons, undermines the character of nations that are forced to combat it.

The well-spring of German militarism through the years has been the group of professional military leaders who have become known to the world as the "German General Staff." That is why the exposure and discrediting of this group through the declaration of criminality is far more important than the fate of the uniformed individuals in the box, or of other members of this group as individuals. Keitel and Raeder and Rundstedt and Kesselring and Manstein have shot their bolt. They will not lead the legions of the Wehrmacht again.

What is really at stake now is not the lives of these particular men, but the future influence of the German General Staff within Germany, and, consequently, on the lives of people in all countries. That is why it was declared at Yalta:[126]

> "It is our inflexible purpose to destroy German militarism and nazism and to insure that Germany will never again be able to disturb the peace of the world. We are determined to disarm and disband all German armed forces; break up for all time the German General Staff that has repeatedly contrived the resurgence of German militarism."

The first steps toward the revival of German militarism have been taken right here in this court room. The German General Staff has had plenty of time to think since the spring of 1945, and it well knows what is at stake here. The German militarists know that their future strength depends on reestablishing the faith of the German people in their military prowess and in disassociating themselves from the atrocities which they committed in the service of the Third Reich. Why did the Wehrmacht meet with defeat? Hitler interfered too much in military affairs, says

H2743 - 0036

Manstein.[127] What about the atrocities? The Wehrmacht committed none. Hitler's criminal orders were discarded and disregarded by the generals. Any atrocities which did occur were committed by other men such as Himmler and other agencies such as the SS. Could not the generals have taken any steps to prevent Germany's engulfment in war and eventual destruction? No; the generals were bound by their oath of obedience to the chief of state. Did not an SS general say that the Field Marshals could have prevented many of the excesses and atrocities?[128] The reaction is one of superiority and scorn: "I think it is impertinent for an SS man to make such statements about a Field Marshal," says Rundstedt.[129] The documents and testimony show that these are transparent fabrications. But here, in embryo, are the myths and legends which the German militarists will seek to propagate in the German mind. These lies must be stamped and labelled for what they are now while the proof is fresh.

This is as important within our own countries as it is here in Germany. Militarism has flourished far more widely and obstinately in Germany than elsewhere, but it is a plant which knows no national boundaries; it grows everywhere. It lifts its voice to say that war between East and West, or Left and Right, or White and Yellow is inevitable. It whispers that newly devised weapons are so terrible that they should be hurled now lest some other country use them first. It makes the whole world walk under the shadow of death.

German militarism, if it comes again, will not necessarily reappear under the aegis of Nazism. The German militarists will tie themselves to any man or party that offers expectation of a revival of German armed might.[130] They will calculate deliberately and coldly. They will not be deterred by fanatical ideologies or hideous practices; they will take crime in their stride to reach the goal of German power and terror. We have seen them do it before.

The truth is spread on the record before us, and all we have to do is state the truth plainly. The German militarists joined forces with Hitler and with him created the Third Reich; with him they deliberately made

H2743 – 0037

a world in which might was all that mattered; with him they plunged the world into war and spread terror and devastation over the continent of Europe. They dealt a blow at all mankind; a blow so savage and foul that the conscience of the world will reel for years to come. This was not war; it was crime. This was not soldiering; it was savagery. These things need to be said. We cannot here make history over again, but we can see that it is written true.

H2743 – 0038

FOOTNOTES

1. 4060-PS, USA 928, p. 4: "Politics and the officer in the Third Reich. Rise--result of the cooperation of the soldiery and politics and the results of political leadership with a definite aim * * * Two pillars: Party and the Armed Forces. They are forms of expression for the same philosophy of life * * * Tasks of the Party and the Armed Forces in indissoluble unity of common responsibility * * * Both sections thrown back onto the success or downfall of the other * * *."

2. Transcript, p. 2121. The distinction between the group defined in the Indictment and the "Grosse General Stab" of the first world war was also made plain at the outset. Transcript, p. 2106.

3. Transcript, p. 7180.

4. USA 531, 532, and 537.

5. It is, for instance, true that the chain of command ran directly from the Supreme Commander of the Army to the Commanders-in-Chief of army groups and armies, and not through the Chief of the General Staff of the Army. But the Chief of the General Staff of the Army was the central figure in developing plans and writing orders which were issued from OKH to the field Commanders-in-Chief.

6. Under the decree of 4 February 1938, Keitel, as the representative of Hitler, exercised the functions theretofore exercised by the Reich War Minister. Transcript, pp. 2108-09.

7. Except for the denial that the office of Deputy Chief of the Operations Staff of OKW (held first by Warlimont and later by Winter) should have been included. As to this, see the affidavit by Halder. USA 535.

8. USA 778. This list is not part of the Indictment, and is in no way necessary to the prosecution's case. It was compiled as carefully as possible from information then available but, as the covering affidavit stated, it probably contains errors and omissions.

9. Transcript, pp. 5265-5266.

10. Transcript, p. 5247.

11. Transcript, p. 15410.

12. This is precisely what General Halder intended as the meaning of "gruppe" in his affidavit. USA 531. Under cross-examination he stated that "group" meant "The number of generals who may be designated as the leading generals." Commission Transcript, p. 3682.

13. Transcript, p. 5155.

14. USA 531 and 532.

15. Under cross-examination Halder testified that, while the phrase "General Staff" in the German army technically means the assistants and adjutants (General Staff Corps), he nonetheless adopted the phrase in his affidavit as most descriptive (to non-Germans) of the "actual military leadership" of Germany, which had always been known outside Germany as the "General Staff." Commission Transcript, pp. 3683-84.

16. Transcript, p. 15410.

H2743 - 0039

17. See, for instance, Jodl's diary for the period 1 February to 26 May, 1940. 1809-PS, GB 88.

18. USA 533.

19. USA 535, 537.

20. USA 535, 537.

21. Commission Transcript, p. 1700.

22. C-142, USA 538; 2327-PS, USA 539.

23. 447-PS, USA 135.

24. 1780-PS, USA 72, entry for 10 August 1938; 798-PS, USA 29; 789-PS, USA 23; C-78, USA 139.

25. The prosecution has stated its view that membership in a group or organization must be basically voluntary in order to support a declaration under Article 9. Transcript, p. 5155.

26. Transcript, p. 5248.

27. Transcript, p. 15458.

28. Transcript, p. 15460.

29. Commissioner's Report, p. 114. See also pp. 183, 189.

30. Transcript, p. 15458. The record does not in all cases show the reasons for retirement or resignation, but the Field Marshals and Colonel Generals mentioned by Manstein no doubt included the following: Bock, Brauchitsch, Kleist, Kuechler, Leeb, List, Manstein, Rundstedt, Witzleben (Field Marshals), and Friessner, Halder, Hoeppner, Hoth, Jaenecke, Mackensen, Ruoff, Strauss, Schmidt, Zeitzler (Colonel Generals).

31. Transcript, p. 5155.

32. Transcript, p. 5155-5166.

33. The eight positions were the Commanders-in-Chief and Chiefs of Staff of the OKH, OKL, and OKM, the Chief of OKW, and the Chief of the Operations Staff of OKW. Four of these positions were filled throughout the pre-war period by the defendants, Goering, Raeder, Keitel, and Jodl. The other four positions were held by six individuals; Brauchitsch, Beck, Halder, Schniewind, Stumpff, and Jeschonnek, of whom two (Beck and Jeschonnek) are dead.

34. USA 629, EC 450.

35. Transcript, p. 2139; 1780-PS, USA 72, entry for 10 March 1938.

36. Transcript, p. 15432-33.

37. However, the testimony of Manstein (Transcript, pp. 15433-34) that previous plans for the invasion of Austria did not exist under the cover name "Otto" is in flat contradition of the documents. "Otto" was originally a plan for the invasion of Austria to prevent a restoration of the monarchy. C-175, USA 69. But the actual invasion in March, 1938 was under the same cover name. C-182, USA 77; C-102, USA 74. And apparently the old draft plans were used. 1780-PS, USA 72, entry for 10 March 1938.

H2743 – 0040

38. Transcript, p. 15432. Brauchitsch was absent at the time. Transcript, p. 15387.

39. Keitel, Goering, Jodl. Transcript, pp. 566-569 and 2138-39.

40. Reichenau, Sperrle, von Schobert, and, of course, Manstein. Transcript, p. 2138; 1780-PS, USA 72, entry for 10 March 1938.

41. Transcript, pp. 15387-89.

42. 1780-PS, USA 72, entry for 30 May 1938. See also the entry for 10 August 1938, which makes it clear that the doubts expressed to Hitler by the military leaders as a group related primarily to "defects of our preparation" and inadequate western fortifications.

43. Transcript, pp. 15387-89.

44. 388-PS, USA 26.

45. Transcript, pp. 743-804. See especially items 11, 15,17, 18, 19, 26, 31, 33, and 54 of the "Fall Gruen" file. The Navy's role was secondary, but OKM was kept informed and laid its plans. See Item 11.

46. 1780-PS, USA 72, entries for 6,8, 10, 11, 15, 16, 17, 19, 20, 21, 22, 25-26, 27, 28, and 29 September.

47. Goering and Stumpff.

48. Jeschonnek and Stulpnagel.

49. Transcript, pp. 808-810, 910, and 2144; C-136, USA 104; C-138, USA 105; 2802-PS, USA 117; 2798-PS, USA 118.

50. USA 536.

51. USA 537.

52. Commission transcript, p. 1630.

53. For the attack on Poland, there were two army groups (Bock and Rundstedt), five armies (Blaskowitz, Kluge, Kuechler, List, and Reichenau), and two air fleets (Kesselring and Lochr). The west was held by an army group (Leeb), an army (Dollman) and two air fleets (Sperrle and Felmy). A naval group command west (Saalwachter) was also created. During the early part of the war, accordingly, the group consisted of about 22 members. USA 778.

54. Transcript, p. 15436.

55. Transcript, pp. 15389-93; 15515-16; Commissioner's Report, p. 155.

56. L-79, USA 27, p. 2.

57. L-79, USA 27, p. 3.

58. Transcript,pp. 15390, 15392, 15515; Commissioner's Report, p. 155.

59. USA 536; USA 537; Commissioner's Report p. 155.

60. USA 535, See also C-120, GB 41.

61. USA 537

62. C-142, USA 538; 2327-PS, USA 539.

63. Transcript, p. 15435.

H2743 - 0041

64. 789-PS, USA 29.

65. Transcript, pp. 1060-1100, and 2159-2162.

66. Members of the group included Keitel, Jodl, Raeder, Schniewind, Goering, and Jeschonnek, as well as the following who later became members: Doenitz, Warlimont, Carls, Fricke, Kranke, and Falkenhorst.

67. Transcript, pp. 15397, 15437, 15516.

68. Transcript, pp. 15394-97.

69. Transcript, 15438. Jodl's diary indicates that during the first half of 1940, Hitler was practically living with the military leaders, and that consultation with the field commanders (Manstein, Reinhardt, Rommel, Kesselring, Student, Sperrle, Richtofen, Falkenhorst and others) was frequent. 1809-PS, GB 88, especially the entries for 17 February, 5, 7 and 15 March, and 2 May, 1940.

70. Brauchitsch claims to have opposed the western offensive on the ground that a diplomatic settlement of the war was preferable. Transcript, pp. 15394-97; Commission transcript, p. 1353; Commissioner's report, p. 155. One can imagine what kind of a settlement this would have been. And there is no evidence that OKH ever drew up any plan for a western offensive which did not contemplate violation of the Low Countries' neutrality.

71. 444-PS, GB 116. See also the Naval War Diary. C-170, US 136, Transcript p. 1178. A perusal of this diary makes abundantly clear the preoccupation of the naval leaders with political questions, and great initiative in making recommendations to Hitler. See especially the entries for 9 March, 5 and 7 June, 20 August, 26 September, 14 November, and 20 and 27 December 1940, and 6 and 20 April, 22 and 30 May, 6 and 14 June, 1941.

72. Commission transcript, p. 3250.

73. Five generals from the Austrian army became commanders-in-chief (de Angelis, Boehme, Loehr, Rauss, Rendulic)

74. Dietrich, Hausser, Himmler, and Steiner. USA 778. Hausser had been a regular army officer until 1932, and held the rank of general-major when he resigned. Both Steiner and Dietrich were also in the Reichswehr until 1933 though neither attained high rank.

75. C-41, GB-96; Transcript, pp. 1097-1100.

76. 498-PS, USA 501.

77. Transcript, pp. 2173-2190.

78. 531-PS, USA 550.

79. Transcript, pp. 15517-18; Commissioner's Report, p. 171

80. 508-PS, USA 545; 512-PS, USA 546; 526-PS, USA 502.

81. 2610-PS, USA 548.

82. L-51, USA 521.

83. Militaerstrafgesetzbuch, para. 47.

H2743 - 0042

84. An intermediate course, apparently adopted by Rommel in Africa was to suppress the order without further notice or protest to higher headquarters. Commission Transcript, pp. 1263-64. Rommel's chief of staff (Westphal) explained that "that kind of disobedience was only possible in another part of the world, so far away from main headquarters. I do not think this was possible in the East or in the West." Commission Transcript, p. 1264.

85. 2610-PS, USA 548.

86. For the views of various commanders-in-chief see C-66, GB 81; C-170, USA 136, especially the entries listed in footnote 71 above; Transcript, pp. 15400-01, 15437, 15516.

87. The commanders and chiefs of staff of OKW, OKH, OKL, and OKM all (except Schniewind, who gave way to Fricke) continued in their positions without change. Most of the field commanders-in-chief who had participated in the Polish campaign and the western offensive also participated in the attack on the Soviet Union. USA 778.

88. 459-PS, USA 926; Transcript, pp. 15464-66.

89. C-50, USA 554; Transcript, pp. 2191-95.

90. C-50, USA 554, p. 4:

> "When judging such offenses, [against enemy civilians] it must be borne in mind, whatever the circumstances, that the collapse of Germany in 1918, the subsequent sufferings of the German people and the fight against National Socialism which cost the blood of innumerable supporters of the movement, were caused primarily by Bolshevik influence and that no German has forgotten this fact."

91. Transcript, pp. 15405, 15438-40, 15516-17; Commissioner's Report, pp. 163-64.

92. See USA 565.

93. USA 565 shows that it reached divisional headquarters. The wide distribution of the order is also clear from the affidavits submitted by the defense, such as Nos. 324A, 324B (down to regiment), 324C (regiment), 333 (battalion), and 336.

94. D-411, UK 81, USA 556; 4064-PS, USA 927.

95. C-148, USA 555.

96. L-180, USA 276; R-102, USA 470.

97. Ohlendorf, Transcript, pp. 2001-55.

98. 447-PS, USA 135; Transcript, pp. 15468-84.

99. Under this directive, the rear areas were under a military commander who was directly responsible to OKW and whose orders superseded all others. See paragraph 3 of 447-PS, USA 135.

100. Transcript, pp. 15402-04.

101. USA 557; Transcript, p. 2080-95.

H2743 - 0043

102. 447-PS, USA 135.

103. C-50, USA 554. Note also that the commanders-in-chief were directed to confirm only those court sentences "which are in accordance with the political intentions of the High Command."

104. 1039-PS, USA 146.

105. Transcript, p. 15405. It is difficult to credit the testimony of Rundstedt that Hitler explained the commissar order to the commanders-in-chief (Transcript, pp. 15516-17; Commissioner's Report, p. 164), but that the Jewish extermination policy was unknown to them because " Hitler would never have expressed such intentions to officers" Transcript, p. 15517. Certainly Hitler's Jewish policies were by that time no secret to anyone.

106. USA 560; USA 563; USA 564.

107. USSR 218; Defense Document Book, p. 136.

108. R-135, USA 289; Transcript, p. 2225.

109. D-421, GB-567. The pencil notes show that this episode was reported to Halder, Chief of the General Staff of the Army, and presumably to von Kuechler, Commander-in-Chief of the Third Army in Poland.

110. Transcript, p. 2241.

111. Brauchitsch made this quite clear in his testimony before the Commission. Commission Transcript, p. 3250.

112. D-411, UK 81, USA 556:

> "The soldier in the eastern territories is not merely a fighter according to the rules of the art of war but also a bearer of ruthless national ideology and the avenger of bestialities which have been inflicted upon German and racially related nations.
>
> "Therefore the soldier must have full understanding for the necessity of a severe but just revenge on sub-human Jewry. The Army has to aim at another purpose i.e. the annihilation of revolts in the hinterland which, as experience proves, have always been caused by Jews."

113. 4064-PS, USA 927:

> "Since 22.6 the German people is engaged in a life and death struggle against the Bolshevist system.
>
> "This struggle is not being carried on against the Soviet Armed Forces alone in the established form laid down by European rules of warfare.
>
> * * *
>
> "Jewry constitutes the middle man between the enemy in the rear and the still fighting remainder of the Red Armed Forces and the Red leadership. More strongly than in Europe, it holds all the key positions in the political leadership and administration, controls trades and guilds and further forms the nucleus for all unrest and possible uprisings.
>
> "The Jewish-Bolshevist system must be exterminated once and for all. Never again must it encroach upon our European living space.
>
> * * *

H2743 - 0044

"The soldier must appreciate the necessity for harsh punishment of Jewry, the spiritual bearer of the Bolshevist terror. This is also necessary in order to nip in the bud all uprisings which are mostly attributable to Jews."

114. Transcript, pp. 15475-84.

115. Transcript, p. 15453.

116. For instance, defense affidavits Nos. 501 and 1630.

117. Transcript, pp. 15512, 15515, 15516-17, 15523; Commission Transcript, pp. 1334, 1336, 1337, 1338, 1343, 1346, 1348, 1351, 1354, 1366, 1374, 1377, 1490, 1517, 1528, and 1534.

118. Commission Transcript, p. 3632.

119. Commission Transcript, p. 3632.

120. For abundant proof one need only read Jodl's diary and the Naval War Diary. 1780-PS, USA 72; 1809-PS, GB 88; C-170, USA 136. See footnote 71, above.

121. Commission Transcript, p. 1336.

122. Commission Transcript, p. 3632.

123. Transcript, p. 15460.

124. L-211, GB 161.

125. Defense Document Book, pp. 1-11. The occasion was the 125th anniversary of the founding of the Academy. General Beck later became Chief of the General Staff of the Army, and is pointed to by Brauchitsch and others as a man who opposed Hitler's warlike intentions in 1938. Transcript, pp. 15387-89.

126. Extract from the text of the report of the conference in the Crimea made public at the White House February 12, 1945. See also the following quotation from the report on the Tri-Partite Conference in Berlin, held from July 17 to August 2, 1945:

"All German land, naval and air forces, the S.S., S.A., S.D., and Gestapo, with all their organizations, staffs and institutions, including the general staff, the officers' corps, reserve corps, military schools, war veterans' organizations and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism."

127. Commission Transcript, pp. 2672-73:

"He [Hitler] lost the war in the long run, because he had tried to take it up with the whole world, but he would never have lost it the way he did if he had let the generals run it themselves.

* * *

H2743 – 0045

"I had not wanted his (Hitler's) removal at all. I only wanted to be certain that Hitler would secure for himself a sensible chief of the General Staff and that he would have one who would be listened to over his own commands as Fuehrer, but this was no longer possible."

128. USA 563.

129. Commission Transcript, p. 1366.

130. Compare Walter Lippmann, Behind the Curtains, May 30, 1946:

"The Allies have disarmed the old German Army. They have dislocated and destroyed the old German war plant. They have demobilized the old German Army. But if they have not deprived the military caste of the hope and expectation of a military career, they have not demilitarized Germany."

H-2743

Organizations - Closing Speech (General Taylor)

English

H2743 – 0046